

**BOROUGH OF WIND GAP
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The Council meeting of the Borough of Wind Gap on Tuesday, April 16, 2013, was called to order at 7:30 p.m. by Council President, George Hinton, at which time he reminded those present that the meeting was being recorded. In attendance were Councilmen: Jon Faust, John Maher, Kerry Gassler, Tony Curcio, Joe Weaver and Dave Hess. Also in attendance were Mayor James M. Shoemaker, Borough Solicitor Ronold Karasek, Borough Engineer Brian Pysher and Borough Administrator Louise Firestone.

PUBLIC COMMENT

1. Patricia Sutter, Wind Gap Borough Tax Collector. Pat informed Council that a couple years ago the Borough Street Leader, John Zucal, took Mrs. Sutter and the old tax records in the Borough truck to the Bethlehem Recycling Center to be destroyed. Pat asked Council for permission to allow one of the street workers to drive her to the center again. She would have to call first to make an appointment. John Maher mentioned that Bethlehem is not taking recycling from outside the area anymore. Pat will call the Bethlehem Recycling Center to inquire whether they accept recycling from outside their area and then inform Council. Council will assist however possible with Pat's request.
2. Glenn Redshaw commended the Police Department for their increased presence at the corner of Lehigh Street and Fifth Street at the stop sign. He thanked Council for their discussions on the proposed nuisance ordinance at the previous Council meeting. He asked if the Right to Know issue has been resolved since that topic was debated and the answer unknown at that meeting. Glenn questioned whether the codes official will be driving around to look for violations or is it just on complaints. Kerry replied that Council had agreed that it would just be based upon complaints. He asked about the large range of fines and how is that figured determined? George said that fine amount has to discourage a repeat offense or recurring event. Glenn commented again on the advertising of this ordinance and possibly included this information in the mailer that was sent out recently notifying citizens about the banner program. George stated that past practice was to advertise in The Express Times. The cost of the mailer without the cost of the printing is around \$500 so to incur this cost which is not required to advertise an ordinance this Council only advertised in the paper which is in line with the necessary advertising requirements.

APPROVAL OF MINUTES

On motion by Jon Faust to approve the minutes of the April 1, 2013 Council meeting and seconded by John Maher. Roll call vote taken. In favor: J. Faust, K. Gassler, D. Hess, G. Hinton, J. Maher, J. Weaver. Abstained: T. Curcio. Motion carried with a vote of 6-0-1.

COMMITTEE REPORTS

1. EMS – Kerry Gassler reported that the Ambulance Corps responded to 83 calls in month of February for a total of 150 for the year. The motor went out on the recently purchased ambulance so a new motor had to be purchased. He reminded Council about the reflective lettering for emergency vehicles. Jon added that the Borough would purchase the numbers and the residents would then purchase from the Borough.

2. Fire Co. – Jon Faust reported the flags on the firehouse were taken down because the flood light on the flagpole is not working. He asked if the street workers could look at it whenever they have the bucket truck out in the Borough. The fire company responded to 12 calls for the month of March for a total of 36 for the year.

3. Zoning – Tony Curcio reported that no new applications have been received so the May 1, 2013 Zoning Hearing Board meeting has been cancelled.

4. Planning – George Hinton reported that the Planning Commission met to review the Borough's Subdivision Plan for the MSG property. Ron Karasek asked Brian Pysher if he had the revised plan ready and if it is ready for the next business meeting, Council can act on the recommendation at that meeting. Brian reported that he has received correspondence from the alternate engineer and the majority of the issues have been addressed. He plans on having the plan finalized by the May 6, 2013 Council meeting. A revised plan was submitted for Planning because Plainfield Township's Zoning Ordinance requires a 150' minimum lot width. He informed Council that the plan was adjusted to include the 150' width which increased from the parcel from 8 acres to approximately 8.27 acres.

5. Municipal Authority – John Maher reported that he did attend the March 27, 2013 meeting and the Authority is still insisting that the Borough give them a list of what streets will be paved and when they will be paved. Brian stated that he received a call from the Authority's engineer, but he has not had a chance to call him back. He has already explained to the Water Company and the Sewer Authority that the Borough is somewhat bound by what funds are received in the form of grant money and liquid fuels money and the estimated cost of each street projects. Brian spoke to Guy Findon, PA American Water, regarding doing improvements to the lower portion of Alpha Road. The Water Company is budgeting money to replace their mains. The Borough has Alpha Road on the list of streets to be repaired but to complete that road; it will cost a significant amount of money. George asked if Alpha could be split in two separate sections, the upper half and the lower half, below 512, the Petro-Mart to Mr. Matlock's house and then from Mr. Matlock's house down to the Borough line. Dave added that Plainfield Township contacted our street department. Rich Fox stated that Plainfield Township's engineer called to notify the Borough that they will be working on Mack Road which includes milling down the existing road three inches and installing pipes. Brian said he will stay in contact with the Sewer Authority engineer, the Water Company and Plainfield Township. Brian will look at the "lower half" of Alpha Road and put numbers together to get an estimate of the cost to do repairs.

6. Streets – Dave Hess reported that 99.9% of the street workers' time has been spent in the play area at the park. They have cleared the storm drains of leaves prior to any rain. Rich added that the excavation will be complete tomorrow and they will be ready for the rides to be set. Jon Faust asked Rich if he had noticed a cone downtown south of Ethel Manoway's house. He is not sure if there is a hole in the road because the cone sits down. Rich will look at the road tomorrow.

7. Police - Mayor Shoemaker reported that the Police Department responded to 118 calls for the month of March, 8 animal complaints, 3 motor vehicle accidents were investigated, they issued 27 traffic citations and 3 parking tickets. The Police Department purchased a new 2013 Ford Interceptor. The street workers have changed the oil in three police vehicles. Officers Flad, Redmond and Donaldson all attended mandatory training in March and Chief Armitage and Officer Stonewall will attend these training classes in April.

8. Park – Joe Weaver reported that the Park Board reviewed the layout for the play area and provided their suggestions to Brian. Joe stated that the board was disappointed that they did not receive a report from the street leader. Dave suggested that the board could come up with a checklist

so Rich could check off what jobs have been completed in the park. Joe said that the Summer Sounds Concert line up has been set for the summer. The Park clean-up day is scheduled for May 4, all volunteers are welcome to help. George stated that he received a call from a group from Bangor who used the park last year requesting the use of the park again this year. The group had bands scheduled for the entire day starting early Sunday and continuing until 10:00 p.m. The Borough does not benefit from proceeds of the day so if the group caused that much aggravation then Council will not approve it this year.

Dave stated that a new lock was put on the garage at the Park. Does the park board need to have three keys to this garage? The lawnmowers, some park equipment and currently the play equipment, some barricades, some Car Show items are all in the garage. Obviously, during the park clean-up day, the park board would need to get the tractors and tools out of the garage. Joe was not sure if the park board has anything in the garage that they need access to on a regular basis so he will in contact with them.

9. 911 – Tony Curcio had nothing to report.

10. Tipping Fees - Tony Curcio reported that the Borough received a check in the amount of \$49,712.42 from Waste Management today and he will have detailed report as soon as possible.

11. Building Finance Committee – George Hinton asked Ron Karasek if he has heard any word from the State regarding the paperwork that was submitted. It has been three weeks since the paperwork was sent to the State. Brian anticipates sending the plans to Labor and Industry this week once he has completed the lot line adjustment in accordance with Plainfield Township's Zoning Ordinance. Kerry asked if the remodeling of the upstairs is included in the plan? Brian replied that it has been done, so he will provide a copy of the plans for all Councilmen.

13. GIS – John Maher reported that he did a follow-up after the last Council meeting with Jim Lockard regarding the Borough computer purchasing procedures. John was informed that Jim Albanese was getting the best possible price for the computer equipment in accordance with the grant from Northampton County related to GIS that is being purchased by the COG. Jim Albanese has placed the order for the equipment which was almost \$2,500 cheaper than the Borough could have purchased it. John has requested that the engineering company provide him with a quote for the second year process on the GIS program. They are providing a quote for the grant money in the amount of \$17,500. They will be building a database for identifying, housing, and updating all at risk residents within the Borough. The Fire Company will assist with the data collection of the fire hydrants in the Borough.

13. Zoning Ordinance Changes (Signs) – Jon Faust reported that he has not had a meeting yet, but will try to schedule one within the next week.

14. Banners – Mayor Shoemaker will report during the Mayor's Report.

15. International Property Maintenance Code (IPMC) – This will be removed since property maintenance IPMC will not be adopted, but related issues have been included in the nuisance ordinance.

MAYOR'S REPORT

Mayor Shoemaker reported that the Slate Belt COG will meet April 24, 2013 at 7:00 p.m. at the Slate Belt COG office, everyone is welcome to attend. Mayor Shoemaker thanked Councilman John Maher, Louise and Darlene for their efforts in getting the mailer out so all the residents were aware of

the banners that are being sold. He reported that as of today, he has 57 confirmed banner orders. He attended a reception for six wrestlers and two swimmers who were recognized by the Pen Argyl Area High School for their athletic achievements. Spring is here, so please groom your lawns and clear off sidewalks and curbs. The Welcome to Wind Gap sign in Indian Trails is in need of paint and new plantings. The Beautification Committee will be contacted to make the necessary repairs.

He thanked all those involved in submitting a grant application to PennDOT which awarded the Borough of Wind Gap \$85,228 to upgrade the traffic timing devices throughout the Borough during accidents or outages so the police and fire police will not have to be called upon.

He asked Council if there is any update on the bus shelters and their placement. Jon stated that he has observed residents being picked up at three different locations in the Borough in the morning. Brian stated that the Borough did have a meeting with Lanta Bus to get their approval for placement and Met-Ed regarding getting electricity to the shelters. Council will look at options for bus locations.

NEW BUSINESS

1. Male Road Bridge – Gustine Limited Partnership Bond. Ron Karasek reported that he received an e-mail from Mr. Gustine offering the Borough the entire bond amount of \$38,000 and a signed release from liability and then Gustine would no longer be involved with any issues related to the bridge. The Borough would be financially responsible for any repairs in the future, which at this point in time is unknown as to what type of repairs and how much it will cost. Council discussed the fact that the bond expires in 2014 and repairs are being made now using funding from the bond. Brian has spoken to several professionals with regard to the duration of the repair work being done, but no one can give a definite answer on how long the repair will last. The original bridge is fine, the area that has to be repaired was the addition made when the plaza was built and that was due to a design flaw with the type of box beam. Ron stated that in his opinion Council should accept Gustine's offer. He advised Council that if the Borough were to take this to court, the judge would ask what the Borough basis for damages is. The court does not award damages on speculations or guesses, but would depend on an engineer saying to an engineering certainty this is going to occur and at this point, neither the Borough's engineer nor the developer's engineer would be able to make that statement.

On motion by Dave Hess to accept the Gustine Limited Partnership Bond in the amount of \$38,000 and releasing Gustine Limited Partnership of any liability and seconded by John Maher. Roll call vote taken. Motion carried unanimously.

OLD BUSINESS

1. Proposed Nuisance Ordinance 481.

Ron Karasek reported that Council had asked him to research whether or not the complaint that someone makes under the Nuisance Ordinance would be subject to disclosure under the Open Records Law. Once he reviewed the Open Records Law he confirmed that it is not subject to disclosure under the law. A complaint submitted to an agency, which means any information with that complaint, including names, addresses, etc. is a non-public record, criminal and non-criminal complaints are non-disclosable. Council can say that they do not care what the Open Record Law states they can still require under the ordinance the person must provide name and address. Council discussed whether to have the ordinance include anonymous complaints or require the person complaining to give name and address, but the Borough would not release that information under the Open Records Act. All Council members would have access to the complaints filed with the Borough. Ron explained that if a resident has an issue with his neighbor he can continually complain, but the law says the way the Borough protects that is, the code officer goes out and the complaint is not a valid complaint and nothing will be done. So the name will not be disclosed, but by the code officer

not proceeding with any type of enforcement because it was a frivolous complaint. If the complaint is related to an animal complaint it would be the Animal Control Officer, if it is a police complaint it would be the Police Chief, if it is an engineering complaint then the Borough Engineer would be involved and they would be charged with determining if the complaint is valid. Ron cited a case Stein vs. Plymouth Township in which a lawyer was turned in for running an office in violation of the zoning ordinances. He said to the judge that he should know who complained against him because under the MPC if he has a zoning hearing he has a right to confront his witnesses, he has a right to know who that witness is, he has a right to ask questions of that witness, but the judge said, this is not a zoning issue it is a Right to Know issue and he had no right to that information. That was an Appellate Court Case in the Commonwealth of Pennsylvania in 2010.

On motion by John Maher to adopt Ordinance 481 – Nuisance as it is written and seconded by Tony Curcio. Roll call vote taken. In favor: G. Hinton, J. Maher, T. Curcio, J. Faust. Opposed: K. Gassler, D. Hess, J. Weaver. Motion carried with a vote of 4-3.

Kerry requested that he be copied on everything that happens, e-mails and everything from now on as a councilman.

Council received a complaint from a resident on North Lehigh about a vacant house that is infested with cats. Council can direct the Animal Control Officer to investigate this issue and take action. Last week in the Borough, the Police and Animal Control Officer were called to a house because of an animal issue. Jon Faust informed Chief Armitage that he received several compliments on how Officer Flad handled that particular situation and did a very good job.

2. Joe Weaver asked for a status update with regard to the Master Plan. George replied that with all the issues currently going on, but he will get back on it.

On motion by Tony Curcio to adjourn the meeting of April 16, 2013. Council agreed unanimously.

The meeting of April 16, 2013 adjourned at 8:51 p.m.

Louise Firestone, Borough Administrator